

### **REMARKS/ARGUMENTS**

In the Advisory Action, mailed September 23, 2010, the Examiner indicated that the Response, filed on September 8, 2010, after the final Office action, was entered. Claims 1-3, 5-6, 10, 12-13 and 17 are pending, with claims 4, 7-9, 11 and 14-16 having previously been cancelled without prejudice. In the present Amendment, claim 17 is amended. No new matter is added.

#### **Allowable Claim**

Applicants gratefully acknowledge the Examiner's indication that claim 17 includes allowable subject matter. Dependent claim 17 has been amended into independent form to include the limitations of the base claim and the intervening claim. Accordingly, newly-independent claim 17 is allowable.

#### **Examiner's Interview**

Applicants appreciate the Examiner's time and consideration during the Telephonic Interview held on November 24, 2010. As discussed below in more detail, during the Interview, Applicants' representative and Examiner Graham discussed the Kraus Declaration and the cited prior art (U.S. Patent No. 5,878,631 ("Muehlpforte") and European Patent Document No. EP 0 703 128 ("Lisiecki")). Agreement was not reached on the claims.

#### **Claim Rejections under 35 U.S.C. §112**

In the final Office action, the Examiner rejected claims 7 and 14 under 35 U.S.C. §112, first paragraph. Claims 7 and 14 have been cancelled. In the Advisory Action, the Examiner indicated that the rejection under 35 U.S.C. §112, first paragraph, has been overcome.

#### **Claim Rejections under 35 U.S.C. §102(b)**

In the final Office action, the Examiner rejected claims 1-3, 5-6, 10 and 12-13 under 35 U.S.C. §102(b) as being anticipated by Muehlpforte. Also, the Examiner rejected claims 1-3, 5, 10 and 12 as being anticipated by Lisiecki. Reconsideration of the rejections is respectfully requested.

## **The Kraus Declaration**

As mentioned above, a Declaration under 37 C.F.R. 1.132 of Achim Kraus (the “Kraus Declaration”) is submitted with the present Amendment and RCE.

As provided in the Kraus Declaration, it is generally understood in the field that an impact between a pedestrian and a windshield wiper device will generally cause a force of between 1000 N and 4000 N to be encountered on the fastening part of the windshield wiper device. Paragraph 3. Accordingly, the windshield wiper device of the present application is provided with a bearing which is detachably connected to the support such that the bearing separates from the support in the event of an increased force on the wiper shaft due to impact with a pedestrian (e.g., encountering a force in or below the above range). Id., paragraph 4.

As explained by Mr. Kraus, as is understood in the field, the claim limitation “at least one retaining clip that detachably connects the bearing to the support such that the bearing separates from the support in the event of an increased force on the wiper shaft due to impact with a pedestrian” means that the bearing is connected to the support so that the bearing will separate from the support when certain forces are applied, such as upon impact with a pedestrian, to protect the pedestrian (e.g. to reduce the risk of injury). Id., paragraph 6. Therefore, Mr. Kraus states that the claim limitation of a bearing “detachably connected” to the support (again, by the at least one retaining clip) defines structure understood in the field. Id., paragraph 7.

Also, based upon Mr. Kraus’ experience in the field, it is his opinion that an engineer or designer of windshield wiper devices understands the type of connection defined by the language in the claims and understands the forces that would or would not allow separation upon impact with a pedestrian. Id., paragraph 5. In addition, it is Mr. Kraus’ opinion that, when examining a windshield wiper device, an engineer or designer of windshield wiper devices would be able to tell if that device includes the claimed “detachably connected” bearing and support. Id., paragraph 7.

## **Independent Claim 1**

Independent claim 1 defines a windshield wiper device (10), for a motor vehicle, comprising a support (12), on which at least one bearing (18) is arranged, which supports at least one wiper shaft (22), characterized in that at least one retaining clip (20) detachably connects the bearing (18) to the support such that the bearing separates from the support in the event of an

increased force on the wiper shaft due to impact with a pedestrian. As discussed above and during the Interview, as provided in the Kraus Declaration, the claim limitation “at least one retaining clip that detachably connects the bearing to the support such that the bearing separates from the support in the event of an increased force on the wiper shaft due to impact with a pedestrian” defines structure understood in the field.

As discussed during the Interview, Muehlporte does not teach or suggest, among other things, a windshield wiper device including at least one retaining clip that detachably connects a bearing to a support such that the bearing separates from the support in the event of an increased force on the wiper shaft due to impact with a pedestrian. Rather, Muehlporte discloses element 15, which is described as “a safety ring 15 or a similar securing element, for example a so-called [sic] speed nut.” There is no teaching or suggestion in Muehlporte that the safety ring 15 or speed nut detachably connects the bearing to the support such that the bearing separates from the support in the event of an increased force on the wiper shaft due to impact with a pedestrian.

Muehlporte also does not teach or suggest a clip as specified in claim 1. Muehlporte discloses “a safety ring 15 or...speed nut.” A ring or nut is an annular element, which is the intent of Muehlporte. A clip, on the other hand, is not annular. Also, a clip has a different function than a ring or nut.

For at least these independent reasons, Muehlporte does not teach the retaining clip required by claim 1.

As also discussed during the Interview, Lisiecki also does not teach or suggest, among other things, a windshield wiper device including at least one retaining clip that detachably connects a bearing to a support such that the bearing separates from the support in the event of an increased force on the wiper shaft due to impact with a pedestrian. Lisiecki discloses a locking plate 30 to connect a tubular component 10 to a matching projection 22 on a wiper-shaft supporting bearing 14. There is no teaching or suggestion in Lisiecki that the locking plate 30 detachably connects the bearing 14 to the tubular component 10 such that the bearing 14 separates from the tubular component 10 in the event of an increased force on the wiper shaft due to impact with a pedestrian.

For at least this independent reason, Lisiecki also does not teach or suggest the subject matter defined by independent claim 1.

For at least the independent reasons discussed above, Muehlporte and Lisiecki, alone or in combination, do not teach or suggest the subject matter defined by independent claim 1. Accordingly, independent claim 1 is allowable. Dependent claims 2-3, 5-6, 10 and 12-13 depend from independent claim 1 and are allowable for at least the same and other independent reasons.

### **CONCLUSION**

In view of the foregoing, Applicants respectfully request entry of the present Amendment and allowance of claims 1-3, 5-6, 10 and 12-13, in addition to claim 17.

If additional consultation will further prosecution, the undersigned is available during normal business hours at the below-identified telephone number.

Respectfully submitted,

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